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10 UNITED STATES DISTRICT COURT FOR THE
11 EASTERN DISTRICT OF WASHINGTON
12 HONORABLE WM. FREMMING NIELSEN

13 UNITED STATES OF AMERICA,
14 Plaintiff,
15 vs.
16 CHARLES JAY EGLET,
17 Defendant
18

No. CR-19-086-WFN
DEFENDANT'S SENTENCING
SUPPLEMENT

SENTENCING: JULY 16, 2020 AT
10:00 AM

19
20 TO: William D. Hyslop, United States Attorney
21 David M. Herzog, Assistant United States Attorney
22

23 **I. Sentencing Supplement:** Mr. Eglet, through his counsel,
24 Roger J. Peven, hereby submits his response to the Final Presentence
25 Investigation Report filed July 6, 2020 and Sentencing Supplement.

Sentencing Supplement

1 **II. Guideline Calculation:** Mr. Eglet, through counsel, has no
2 objection nor correction to the Guideline Calculation found in Paragraphs
3 41-65 of the Presentence Investigation Report. (Hereafter PSIR)
4

5 **III. Meeting With Presentence Investigative Report Author:**
6 Following an initial delay in participating in an in-person interview with the
7 PSIR author due to Covid-19 concerns, Mr. Eglet was interviewed at the
8 Spokane County Jail with his attorney present. He was able to verify the
9 information contained in the original PSIR as well as provide additional
10 information relevant to his current financial status.
11

12 **IV. Ability To Pay a Fine:** Paragraphs 95-97 concludes that Mr.
13 Eglet is indigent and has no assets to go towards the \$5,000 fine he would
14 be required to pay otherwise. Mr. Eglet has been in custody since August
15 24, 2018. We urge the court not to impose this fine so that any resources
16 Mr. Eglet obtains can be devoted to the court's restitution order.
17

18 **V. Restitution:** Paragraphs 34 and 118 were amended from the
19 original PSIR. The victim (M.G.) of Count One provided a restitution
20 request through her father. Those are attached to the Final PSIR. Mr.
21 Eglet does not oppose the court ordering restitution based on the direct
22 result of Mr. Eglet's conduct to include summer school, medical costs and
23 lost guardian wages totaling \$5,750.59. There is no objection to the court
24 adding to that total the \$1,065 to be paid to the Crime's Victim Fund in the
25 amount of \$1,065. The agreed amount, therefore, totals \$6,815.59.

1 Mr. Eglet does oppose the request for an additional \$17,498.19 in
2 restitution derived from college costs incurred by the victim's mother
3 completing a college course in software design. This objection is not in any
4 way intended to minimize or devalue the harm caused to the victim or her
5 family by Mr. Eglet's conduct.

6 18 U.S.C. Sec. 2259 (3) outlines the victim losses subject to
7 restitution. Item F. of that code section is pertinent in this question.

8 "F. any other loss suffered by the victim as a proximate result of the
9 offense."

10 The government bears the burden of proof to prove, by a preponderance of
11 the evidence, that this loss is appropriately ordered. 18 U.S.C. Sec. 3664
12 (e), *United States v. Kennedy* 643 F.3d 1251 (9th Cir. 2011).

13 First, Mr. Eglet submits that the cost of this completed course is not
14 appropriately identified as a "loss" as envisioned by Sec. 2259. The course
15 was completed and the benefit therefrom obtained. (See Certificate of
16 Completion). Second, the cost of the course has not been shown as a
17 "proximate result of the offense." Restitution can be ordered only if the
18 person is a victim of the offense, that is one who is directly and proximately
19 harmed by the defendant's commission in the offense and that the
20 defendant is the "actual and proximate cause of the loss." See *United*
21 *States v. Peterson*, 538 F.3d 1064,1068 (9th Cir. 2008).

22 While in some circumstances losses attributable to the victim's
23 mother would be appropriate, here it is not. Mr. Eglet can identify no
24 causal relationship between the cost of a completed college course
25

1 unrelated to the nature of the offense, and his criminal conduct. This
2 proposed restitution amount should be denied.
3

4 **VI. Length of Term of Supervised Release.** Pursuant to 18 U.S.C.
5 Sec. 3583 (k), the term of supervised release that must be imposed is
6 between 5 years and a life term. Pursuant to the Plea Agreement, the
7 government will ask the court to impose a life term of supervised release
8 and Mr. Eglet may seek a 20 year term.

9 Without question the offenses of conviction and other relevant
10 conduct describe a very serious and dangerous risk potentially posed by
11 Mr. Eglet upon release from prison. It is Mr. Eglet's sincere desire that he
12 receive intensive and long-term counseling while imprisoned for the 270
13 months anticipated. He will be in his 50's when released. He will be
14 subject to lifetime reporting as a sexual offender. The conditions of
15 supervised release outlined in the PSIR, and reviewed and approved by Mr.
16 Eglet, provide intensive supervision. They also provide resources for Mr.
17 Eglet's continued counseling and treatment. Mr. Eglet is 30 years old and
18 has never had any criminal conviction. If the court imposes 20 years of
19 supervision, Mr. Eglet will be in his 70's when that supervision would end.
20 If he does so without violation, he should be released from supervision. If
21 he violates, the court has discretion to add additional time of imprisonment
22 and supervision. A 20 year term of supervision adequately protects the
23 public.
24
25

1 **VII. Term of Incarceration:** The Plea Agreement results in a joint
2 recommendation for a 270 month term of incarceration. Both the
3 government and Mr. Eglet continue to believe this is the appropriate
4 sentence. It required one and one half years of investigation and
5 negotiations to reach this “global settlement.” Nearly two years have
6 passed since his arrest. Throughout this entire time until the present, Mr.
7 Eglet has had an overriding goal: Take total responsibility for his conduct
8 and do nothing to further traumatize the victims and their families. Not
9 every similar case ends this way.

10
11 **VIII. Location of Incarceration:** Mr. Eglet is very determined to
12 spend his lengthy term of incarceration in a location that provides
13 appropriate counseling that is clearly needed. He also intends to take full
14 advantage of drug counseling and vocational training. We ask the court to
15 recommend placement in Englewood FCI in Littleton, Colorado where such
16 programs are available.

17
18 **VIII. Conclusion:** Mr. Eglet is 30 years old. He has never before
19 been convicted of any crime. He has a very distinguished and supportive
20 family. As the letters submitted to the court demonstrate, the family has
21 provided continuous support and love. They also have fully supported
22 accountability for these most serious of offenses. In her remarkable letter
23 to the court, M.G. ends by offering her forgiveness. Mr. Eglet intends to
24 spend the rest of his life earning that forgiveness.

1
2 Respectfully Submitted this 14th day of July, 2020.

3 s/ Roger J. Peven
4 WA 6251
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CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: David Herzog, Assistant United States Attorney.

s/ Roger J. Peven
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